

Before the
COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re

**DISTRIBUTION OF CABLE
ROYALTY FUNDS**

**DOCKET NO. 16-CRB-0009-CD
(2014-17)**

SETTLING DEVOTIONAL CLAIMANTS' NOTICE OF CONTROVERSY

The Settling Devotional Claimants (“SDC”) hereby provide notice of the controversies and potential controversies they believe remain in the 2014-17 cable royalty proceedings. The SDC propose further allocation and distribution phase proceedings generally modeled on the proceedings in the 2010-13 cable and satellite royalty proceedings, Docket Nos. 14-CRB-0010-CD, 14-CRB-0011-SD, and 14-CRB-0010-CD/SD. To the extent there are some remaining controversies in the parallel 2014-17 satellite proceedings, Docket No. 16-CRB-0010-SD, predominantly in the distribution phase, the SDC propose that the Judges consolidate the cable and satellite proceedings for resolution of the remaining controversies.

The Judges traditionally have divided cable royalty proceedings into two phases: The “allocation phase” (formerly known as “Phase I”) involves the allocation of royalties between claimant categories. The “distribution phase” (formerly known as “Phase II”) involves the allocation of royalties between claimants within a claimant category. The division between the allocation and distribution phases has been largely successful in promoting settlements and efficient resolution of disputes, because it allows and encourages claimant groups to band together on matters of mutual interest in allocation phase proceedings, thereby reducing the number of independent litigants in the proceeding, while allowing disputes within a claimant

category to be cabined in separate distribution proceedings not involving claimants in categories that do not have distribution phase disputes. For all years from 1998 onward, the only distribution phase disputes that have required determinations by the Judges have involved Worldwide Subsidy Group, LLC (dba Independent Producers Group or Multigroup Claimants) or one or more of its purported assignees in the Devotional, Program Suppliers, or Sports categories. For more than two decades, all disputes between all other claimants within a category have been resolved without the need for a determination by the Judges. Because of the longstanding success of the two-phase resolution structure, the SDC propose maintaining it in this proceeding.

The SDC have attempted in good faith to discuss potential resolution of disputes in this proceeding, including in multiple calls, emails, and conference calls with counsel for all other participants. Potential settlement discussions remain ongoing, and the SDC remain hopeful of a resolution. Nevertheless, the following controversies and potential controversies, organized by phase, remain unresolved for the time being:

I. Allocation Phase Controversies

As in past allocation phase proceedings, the principal controversy between participants will be the allocation of royalties among claimant categories, as defined in the Judges' Order Lifting Stay and Adopting Claimant Categories. Negotiations continue, but there currently are no settlements in place between any of the claimant categories for cable royalties. The SDC are optimistic that at least some categories will settle out, as has occurred in all other allocation phase proceedings in recent decades. Nevertheless, it appears likely that at least some controversies as to allocations among categories will remain.

II. Distribution Phase Controversies

A. Distribution Phase Controversies between the SDC and Claimants Represented by the National Association of Broadcasters

There are a small number of commercial television stations represented by the National Association of Broadcasters (“NAB”) that syndicate their own religious programming. Because syndicated religious programming falls in the Devotional category, and not the Commercial Television category, these programs are compensated from Devotional category funds. The SDC and NAB traditionally have been able to resolve these claims through settlement, and they expect to be able to do so again in this proceeding, once the data become available to identify the syndicated religious programs at issue. In the unlikely event that a settlement cannot be reached, then there may be a distribution phase controversy within the Devotional category.

B. Distribution Phase Controversies between the SDC and Claimants Represented by the Public Broadcasting Service

There are noncommercial educational stations that predominantly broadcast syndicated religious programs, including programs that also air on commercial and network stations. The SDC and PBS were able to resolve these claims in the 2010-2013 proceeding through settlement, and they expect to be able to do so again in this proceeding, once the data become available to identify the syndicated religious programs at issue. In the unlikely event that a settlement cannot be reached, then there may be a distribution phase controversy within the Devotional or Public Television category.

C. Distribution Phase Controversies between the SDC and Multigroup Claimants.

There is no distribution phase controversy with Multigroup Claimants for royalty year 2014, because Multigroup Claimants filed no claim for that year. For royalty years 2015-17,

there are distribution phase controversies or potential controversies between the SDC and Multigroup Claimants within the Devotional category.

1. Claim Validity

There is a potential controversy as to whether “Multigroup Claimants” (believed to have been an assumed business name of Alfred Galaz at the time the claims were filed) was a qualified and authorized agent of the purportedly represented claimants at the time of the filing, or whether it remains so now. Therefore, there is a potential controversy over the validity of Multigroup Claimants’ claims in the Devotional category.

2. Claim Categorization

The SDC do not yet know the full list of titles that Multigroup Claimants intends to claim in the Devotional category. In past proceedings, Multigroup Claimants or its related entities have made claims for programs not properly categorized in the Devotional category. Therefore, there is a potential controversy as to the categorization of Multigroup Claimants’ claimed programs.

3. Distribution Between Claimants Within the Devotional Category

Because methodologies for distribution within the Devotional category are likely to depend heavily on the identification of validly represented claimants and validly claimed programs, the SDC propose that claim validity and categorization disputes be decided first. If Multigroup Claimants is found to have valid claims within the Devotional category that it is authorized to pursue, then there will be a controversy or potential controversy regarding the distribution of Devotional category funds between the SDC and claimants purportedly represented by Multigroup Claimants.

III. Proposal for Further Proceedings

The SDC propose further allocation and distribution phase proceedings generally modeled on the proceedings in the 2010-13 cable and satellite royalty proceedings, Docket Nos. 14-CRB-0010-CD, 14-CRB-0011-SD, and 14-CRB-0010-CD/SD. To the extent there are some remaining controversies in the parallel 2014-17 satellite proceedings, Docket No. 16-CRB-0010-SD, predominantly in the distribution phase, the SDC propose that the Judges consolidate the cable and satellite proceedings for resolution of the remaining controversies.

Due to prior commitments of counsel, the SDC request the Judges not to set any allocation or distribution phase hearing during the following timeframes: November 29-December 10, 2021; March 1 – April 15, 2022; July 1 – August 5, 2022.

Date: July 19, 2021

Respectfully submitted,

/s/ Matthew J. MacLean

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Certificate of Service

I certify that on July 19, 2021, I caused the foregoing to be served on all parties by filing through the eCRB system.

/s/ Matthew J. MacLean
Matthew J. MacLean

Proof of Delivery

I hereby certify that on Monday, July 19, 2021, I provided a true and correct copy of the Settling Devotional Claimants' Notice of Controversy to the following:

Public Television Claimants, represented by Ronald G. Dove Jr., served via ESERVICE at rdove@cov.com

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via ESERVICE at ted@copyrightroyalties.com

National Public Radio, represented by Gregory A Lewis, served via ESERVICE at glewis@npr.org

Joint Sports Claimants, represented by Michael E Kientzle, served via ESERVICE at michael.kientzle@arnoldporter.com

Canadian Claimants, represented by Lawrence K Satterfield, served via ESERVICE at lksatterfield@satterfield-pllc.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Broadcast Music, Inc. (BMI), represented by Jennifer T. Criss, served via ESERVICE at jennifer.criss@dbr.com

Global Music Rights, LLC, represented by Scott A Zebrak, served via ESERVICE at scott@oandzlaw.com

Multigroup Claimants, represented by Brian D Boydston, served via ESERVICE at brianb@ix.netcom.com

ASCAP, represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Commercial Television Claimants / National Association of Broadcasters, represented by John Stewart, served via ESERVICE at jstewart@crowell.com

Program Suppliers, represented by Lucy H Plovnick, served via ESERVICE at

lhp@msk.com

Signed: /s/ Matthew J MacLean